

APPROVED MINUTES

KITTERY TOWN COUNCIL

November 14, 2005

Council Chamber

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chairperson Ann Grinnell.

2. INTRODUCTORY

Chairperson Grinnell read the Introductory.

3. PLEDGE OF ALLEGIANCE

Chairperson Grinnell led those present in the Pledge of Allegiance.

4. OATH OF OFFICE TO NEWLY ELECTED COUNCILORS

Chairperson Grinnell said that before the new Councilors were sworn in, she had two Certificates of Appreciation to pass out to the two Councilors that were leaving; they've worked hard for the Town for approximately eight to nine years between them. She said she really appreciated all the time they had put in and wanted to express the Council's heart felt gratitude. The Certificates of Appreciation were presented to Councilor Leo Guy and Councilor Richard Balano.

Chairperson Grinnell said two new Councilors had been elected by the citizens last Tuesday and asked Judith Spiller and Jeff Brake to come forward to be sworn in by Town Clerk Place.

5. ROLL CALL

Answering the roll were Councilors Jeffrey Brake, Matt Brock, Frank Dennett, George Heilshorn, Judith Spiller, Glenn Shwaery and Chairperson Ann Grinnell. Also present were outgoing Councilors Rich Balano and Leo Guy, Town Manager Jon Carter, Town Clerk Maryann Place, General Assistance Coordinator Kathryn Pridham, Commissioner of Public Works, Rick Rossiter, Sewer Superintendent Steve Tapley, Recorder Chris Kudym, Susan Emery, Lisa and Jay Comeau, Bill Pagum, Audrey F. Wilkinson, John Hendrickson, Marsha P. Kenney, Steve Workman, Carl Bachman, George A. Lombardi, Lisa R. Muccio, George Dow, William M. Bailey, Dean Quinlan, John Weld, Walter Wheeler, Doreen Ellis, Debbie Driscoll, Maria Barth, Seba Johnson, Charlie Rodis, Peter McCloud, Jane Durgin, Catherine Davis, members of the press and others.

6. THE KITTERY TOWN COUNCIL MOVES TO ELECT A CHAIRPERSON FOR THE ENSUING YEAR.

COUNCILOR HEILSHORN MADE A MOTION TO ELECT CHAIRPERSON ANN GRINNELL FOR ANOTHER YEAR, SECONDED BY COUNCILOR SHWAERY.

Chairperson Grinnell said she would be honored to chair for another year.

A ROLL CALL VOTE WAS TAKEN: SIX IN FAVOR, WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 6/1.

7. THE KITTELY TOWN COUNCIL MOVES TO ELECT A VICE-CHAIRPERSON FOR THE ENSUING YEAR.

COUNCILOR DENNETT MADE A MOTION TO ELECT COUNCILOR SHWAERY AS VICE-CHAIRPERSON FOR THE ENSUING YEAR, SECONDED BY COUNCILOR HEILSHORN.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Councilor Shwaery changed seats with Council Spiller and Chairperson Grinnell reminded the new members of the Council to speak into their microphones in order to be heard by the TV public.

8. ACCEPTANCE OF PREVIOUS MINUTES
The Minutes of October 24, 2005 were accepted, as amended.
9. INTERVIEWS FOR PLANNING BOARD, ZONING BOARD OF APPEALS AND/OR CABLE TELEVISION RATE REGULATION BOARD: None.
10. PUBLIC HEARINGS:

a. (110105-1) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO HEAR APPEALS REGARDING SEWER ASSESSMENT FEES FOR PROPERTIES BENEFITED BY THE MAIN STREET, OTIS AVENUE, CENTRAL AVENUE, DARNE STREET, JONES AVENUE, WENTWORTH STREET SEWER PROJECT AND TO ESTABLISH AN INTEREST RATE OF ____ PERCENT ON UNPAID BALANCES OF SEWER BETTERMENT FEE ASSESSMENTS COMMENCING _____ 2006 FOR PROPERTIES BENEFITED BY THE AFOREMENTIONED PROJECT.*

Town Manager Carter said to the Chair that they were not hearing appeals, they were hearing comments on sewer assessment; that appeals might come out of it but, right then, they would be hearing comments.

Chairperson Grinnell opened the public hearing, asking if there were any members of the public present that would like to address this issue. With no one coming forward, Chairperson Grinnell closed the public hearing and asked for the pleasure of the Council.

COUNCILOR SHWAERY MOVED TO ESTABLISH AN INTEREST RATE OF FOUR (4%) PERCENT ON UNPAID BALANCES OF SEWER BETTERMENT FEE ASSESSMENTS COMMENCING OCTOBER 13, 2006 FOR PROPERTIES BENEFITED BY THE AFOREMENTIONED PROJECT, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Shwaery said he understood that the Town was able to borrow money at an interest rate of 1.9% and the cap for property taxes was 7.75%. He said he didn't think the Town should make money on unpaid balances and should charge property owners 1.9%. and he had used 4% as something in between; it was certainly open for discussion. Councilor Shwaery asked the Manager if people would be assessed this fee and would be paying it but not charged interest until one year from the commencement date? Town Manager Carter said that was correct and notices had already gone out. Councilor Shwaery asked how the affected property owners' balance would

be calculated if this motion was confirmed, unless it was appealed. The Manager said the next step would be for a letter to go to the 24 property owners indicating this was based on what the simple interest rate was and they would have up to ten years to pay the balance and asking them to please come into the Town Hall to work out the payment arrangements.

Chairperson Grinnell asked if there was any further discussion and Councilor Dennett said he was curious why Councilor Shwaery thought the interest rate should be 4% since the Manager had suggested a rate of 5.5% and that Council should remember that if all people affected came in, they would undoubtedly not all come under one boiler plate agreement and this would involve quite a bit of work administratively. Also, he said, that they needed to remember that only half of this expense was being charged for the properties that were being serviced by the sewer because the rest of us were picking up the other half. Councilor Shwaery said that it was almost a rhetorical question but that all the other houses in Kittery that were using sewer were spreading that 50% out, so he just didn't see a late fee having to be too excessive in this case. Councilor Dennett said that it was not a late fee; there would be a program set up that after 2006, the affected people could make payments with interest for nine years. Councilor Shwaery said he was certainly amenable to hearing an amendment to the 4%. Councilor Dennett said they should remember that if they were going to treat people unfairly, they should treat them all equally unfairly and that in past years, it had been the State rate that had been set on the rate of unpaid taxes, that it varied a little but was currently around 7.5% and he thought it had been kind of the Town Manager to suggest a rate of 5.5% because the new ones would be getting a break.

COUNCILOR DENNETT MOVED TO AMEND THE MOTION BY HAVING THE INTEREST RATE SET AT FIVE AND ONE HALF (5 .5%) PERCENT, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Shwaery asked for a point of clarification. He said he thought the summary of September 28, 2005 they received indicated they actually borrowed the money at 1.95% and asked if that rate applied to the 50% that the Town was picking up. Councilor Dennett said that the Town was borrowing the whole amount at 1.94%. Councilor Shwaery said so when you're talking about the Town is paying 1.94%, the 24 households picking up the other 50% will be paying a higher interest rate – isn't 4% higher than 1.94%? Councilor Dennett said that the rate of 7.5% had been applied on prior projects so they thought 5.5% was fair.

Chairperson Grinnell asked if there were any further discussion on the rate change, with the date staying the same.

A ROLL CALL VOTE WAS TAKEN ON THE AMENDED MOTION, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Councilor Dennett reminded the Chair that the Manager had requested Council to instruct him to work with property owners and he believed it would be proper to include that in the Motion and accept it under the Ordinance. Councilor Shwaery said he would amend his Motion.

COUNCILOR SHWAERY MOVED TO AMEND THE MOTION TO INCLUDE AN INSTRUCTION TO THE TAX COLLECTOR TO WORK WITH PROPERTY OWNERS IN SETTING UP PAYMENT SCHEDULES, SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL VOTE WAS TAKEN ON THE AMENDED MOTION, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Grinnell called the Council's attention back to the original Motion and asked if there was any further discussion. There was none.

A ROLL CALL VOTE WAS TAKEN ON THE ORIGINAL MOTION, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Grinnell said that the Vice Chair brought to her attention that Council had to confirm the assessment fees and asked Town Manager Carter if that was correct. The Manager said that yes, it would help.

CHAIRPERSON GRINNELL MOVED TO ACCEPT THE SEWER ASSESSMENT FEES AS PRESENTED FOR PROPERTIES BENEFITED BY THE MAIN STREET, OTIS AVENUE, CENTRAL AVENUE, DARNE STREET, JONES AVENUE, WENTWORTH STREET SEWER PROJECT, SECONDED BY COUNCILOR SHWAERY.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

b. (110105-2) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO ADOPT THE REVISED STATEWIDE GENERAL ASSISTANCE ORDINANCE AND APPENDICES.*

Town Manager Carter said that he and Kathy Pridham, the General Assistance Coordinator, would be able to answer any questions the Council had. The Manager said that this was a Model Ordinance the State sent to them through the Maine Municipal Association as a guide in general assistance and the Town had adopted the Ordinance. Town Manager Carter said that they had an Amendment to that Ordinance with an update of the eligible income levels and benefits in the Appendixes and Council had two copies in their packets, an underlined one indicating the Amendments and a "clean" one.

Chairperson Grinnell asked if any member of the public had comments and receiving no response, closed the public hearing and asked for the pleasure of the Council.

CHAIRPERSON GRINNELL MOVED TO ADOPT THE REVISED STATEWIDE GENERAL ASSISTANCE ORDINANCE AND APPENDICES, SECONDED BY COUNCILOR HEILSHORN.

Chairperson Grinnell questioned the dates contained in the documents, saying they ran from October 1, 2005 to October 1, 2006 and asked if it should not run from October 1, 2005 to September 30, 2006? Town Manager Carter said the State had it going from October 1 to October 1. Chairperson Grinnell asked if there were any further comments or questions on the document and Councilor Heilshorn said that since it was quite an extensive document, he wondered if Kathy and Jon would like to highlight any of it. Town Manager Carter said Kathy was very familiar with this and his opinion of it was that it was a kinder version of the Ordinance, taking into account the applicants' needs as opposed to looking at cases from a strictly administrative view and that someone obviously had put a lot of thought into these Amendments making them more beneficial to the applicant and showing more understanding their needs.

Chairperson Grinnell said that was good to hear and asked if anyone had any other questions or comments.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. (110105-3) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO RECEIVE COMMENTS REGARDING AN AMENDMENT TO CHAPTER 13.04 SEWER SERVICE SYSTEM, SEC. 13.04.360, COLLECTION OF ASSESSMENTS AND CHARGES (A), CHANGING THE PERIOD OF REPAYMENT FROM 30 YEARS TO 10 YEARS TO BE CONSISTENT WITH MRSA 30-A, SUBSECTION 3444, COLLECTION OF ASSESSMENTS.*

Chairperson Grinnell said this was advertised in the Portsmouth Herald and opened the public hearing.

A man who did not identify himself came up and said that concerning the sewer assessment, he hadn't been sure where to respond. He said that since Council had confirmed the rate and the interest, would there now be time they could appeal that? Town Manager Carter said he would have ten days to appeal the 5.5% and asked if he understood him to mean he would be appealing his assessment rather than the rate percentage. The man said there was nothing to appeal before, because you had public comment and then you set the rates and you wouldn't know what you're feelings were if you didn't know what the Council were saying; for instance, I heard that the rate was 7.5% but we don't know that, it was just a blanket statement. If there's ten days to appeal, he said he had a neighbor, who was away, and asked if he could get an estimation for him as well. He said he would get his neighbor on the phone and wondered what he could do if that neighbor was not happy. Town Manager Carter said he would certainly take an e-mail or a letter or something. The Manager said he would be sending a letter out tomorrow informing people they would have ten days from this evening to appeal and if they wanted to appeal, they should call, come in and they would work out a plan. The man asked what if they wanted to appeal the 5.5% and the Manager said that was a set amount. The man said the sewer issue and public hearing now was about changing payments from 30 years to 10 and asked if that was for everyone or just this project. Town Manager Carter said they what they were doing was bringing their Ordinance into compliance with the State Law, basically a little housekeeping. The man said he had just finished payment on another piece of property and now would have to begin again and his understanding was if he was not happy with this appraisal or with this formula, the only hearing was about if they liked it or they didn't.

Chairperson Grinnell asked if anyone else had any questions or comments and not receiving a response, closed the public hearing and asked the pleasure of Council.

COUNCILOR HEILSHORN MOVED TO ORDAIN AN AMENDMENT TO CHAPTER 13.04 SEWER SERVICE SYSTEM, SEC. 13.04.360, COLLECTION OF ASSESSMENTS AND CHARGES (A), CHANGING THE PERIOD OF REPAYMENT FROM 30 YEARS TO 10 YEARS TO BE CONSISTENT WITH MRSA 30-A, SUBSECTION 3444, COLLECTION OF ASSESSMENTS, SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. (110105-4) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO AMEND THE LAND USE AND DEVELOPMENT CODE, SECTIONS 16.24.050,*

APPEAL PROCEDURES, (A) INITIATIVE PROCEDURES (2), (B) AND (D), CHANGING “TOWN CLERK” TO “CODE ENFORCEMENT OFFICER OR DESIGNEE” AND TO MAKE SEC. 16.04.040, PLANNING BOARD (A) APPOINTMENT AND COMPOSITION AND SEC. 16.04.050 ZONING BOARD OF APPEALS, (A) APPOINTMENT AND COMPOSITION, CONSISTENT WITH THE TOWN CHARTER REVISIONS OF JUNE 2002 CONCERNING MEMBERSHIP.

Chairperson Grinnell said this was advertised in the local paper and opened the public hearing. There being no comments, the Chair closed the public hearing and asked the pleasure of Council.

COUNCILOR SHWAERY MOVED TO AMEND THE LAND USE AND DEVELOPMENT CODE, SECTIONS 16.24.050, APPEAL PROCEDURES, (A) INITIATIVE PROCEDURES AND TO MAKE SEC. 16.04.040, PLANNING BOARD (A) APPOINTMENT AND COMPOSITION AND SEC. 16.04.050 ZONING BOARD OF APPEALS, (A) APPOINTMENT AND COMPOSITION, CONSISTENT WITH THE TOWN CHARTER REVISIONS OF JUNE 2002 CONCERNING MEMBERSHIP, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Heilshorn said he might not have heard part of the motion and Councilor Shwaery said he assumed the stated Amendment included all portions.

COUNCILOR HEILSHORN MOVED TO AMEND THE MOTION TO INCLUDE SECTION 16.04.050 (2), (B) AND (D), SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Grinnell brought Council's attention back to the original motion and asked for comments. Councilor Dennett said that at his age memory can fade but he didn't remember the Planning Board having held a public hearing on this item but he stood to be corrected. Town Manager Carter said Councilor Dennett was right, they had not. Councilor Dennett said he must respectfully suggest the Council could take no action since the Land Use and Development Code contained in its provisions a condition that said no amendments could be made until the Planning Board and Town Council had held a public hearing thereon. Councilor Shwaery asked if that didn't apply to the Zoning Board and Councilor Dennett said no. Councilor Shwaery asked who would conduct the public hearing of the Zoning Board and Councilor Dennett said any amendment, in sum total or in part, could occur only after there had been a public hearing by the Planning Board and the Town Council. Chairperson Grinnell said that if what Councilor Dennett was saying was correct, and she believed he was probably correct, they would have to have a joint public hearing with the Planning Board. Councilor Dennett said he submitted that was incorrect, that there was nothing that required a public hearing to be joint or concurrent; it was up to the Planning Board to hold their public hearing and Council generally asked them for their recommendation. Councilor Dennett suggested they make a motion to postpone the item until December or even January since they were housekeeping items. Chairperson Grinnell said she would pass it down to Town Manager Carter and wait to find out what would be planned but they had to deal with the Motion, postpone perhaps to the first meeting in January and, hopefully, the Planning Board would have had enough time to deal with the issue and send us a memo with their recommendation.

CHAIRPERSON GRINNELL MOVED TO POSTPONE UNTIL JANUARY 9, 2006 A MOTION TO AMEND THE LAND USE AND DEVELOPMENT CODE, SECTIONS 16.24.050, APPEAL PROCEDURES, (A) INITIATIVE PROCEDURES (2), (B) AND (D), CHANGING “TOWN CLERK” TO “CODE ENFORCEMENT OFFICER OR DESIGNEE” AND TO MAKE SEC. 16.04.040, PLANNING BOARD (A) APPOINTMENT AND COMPOSITION AND SEC. 16.04.050 ZONING BOARD OF APPEALS, (A) APPOINTMENT AND COMPOSITION, CONSISTENT WITH THE TOWN CHARTER REVISIONS OF JUNE 2002 CONCERNING MEMBERSHIP.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

11. DISCUSSION

a. *DISCUSSION BY MEMBERS OF THE PUBLIC (Three minutes per person)*

Chairperson Grinnell said there were a lot of people in the room and they would have a chance to speak but it would be necessary for her to watch the clock and when their three minutes were up, they would have to stop talking. The Chair said to the people who were there concerning the Rec Department, they should know that this issue and the citizens’ petition would have their own public hearing where they could all come and speak and make comment. Chairperson Grinnell said this was not a public hearing for anything to do with the Rec Department tonight.

Maria Barth of Kittery Point came to the podium and expressed sadness concerning a headline that said Community Center was dividing Town. Nothing, she said had to divide the Town. She was also sad about having personnel issues become headlines and was concerned about the lack of civility brought into these issues, urging people to talk to each other and to do it in a civil manner.

A man from 15 Pepperrell Road said he wanted to second what Maria Barth had said because he was very disturbed by the tone of the presentation of people who opposed the Rec Center at the Planning Board and believed there was no reason to divide the community. He said the Committee spent a long time working on this and it wasn’t fair to tell them they weren’t open enough or didn’t share information. He would like to see people come in with positive suggestions on how to address issues.

Seba Johnson said that when she was younger she had played in Emery Field and thought that in the 21st century there was no greater luxury than green open spaces. She felt that the combining of two bond projects was a big mistake because one project could be used to manipulate the other and result in a decrease in the quality of life for those who lived in Admiralty Village. Ms. Johnson believed that decreasing open play space created a dangerous situation that would become problematic with kids in the area who would be forced to play in the streets. She also believed there would be more pets killed. Ms. Johnson felt that the present Center did not have to be destroyed, that it could perhaps be added to. She pointed out that recent flood problems should be paid attention to and flood coverage insurance could increase. Ms. Johnson felt there was no foresight involved in the destruction of trees and greenery that would be replaced with parking lots and suggested that activities at the Rec Center didn’t all have to be indoors.

George Lombardi, 105 Manson Avenue, approached the podium and said he didn’t see how the two bond issues could be combined and, living right across the street from the Rec Center, he didn’t see how they were going to cover the wetland with the building. Mr. Lombardi said he was not against a Community Center but wondered how a traffic survey came after everything was done. To his knowledge, the traffic survey became public knowledge in June of 2005 and the vote came two and a half years ago.

Peter Lavandia came forward and said he was wondering why an alternative site could not be used or why the Town sold the Dennett School that could have been used or perhaps some of the existing schools could be used as community centers as other towns did. He felt the Town didn't need to go out and build a brand new building to satisfy a few people and agreed with what Reba Johnson had said earlier about adding on.

Lisa Muccio, 4 Central Avenue, came to the podium and said that it was always important to her that when she voted on anything, she would be as well informed as possible on candidates and issues and that she had researched this issue thoroughly. Ms. Muccio said that when she voted, she knew the traffic would increase and the traffic study only confirmed what she already knew. She already knew other sites had been looked at and agreed with the choice since she wasn't going to have her son bicycling on Route 236 or Route 1. She said kids needed a safe place to hang out and Kittery needed a Rec Center not only for kids but others. Ms. Muccio said she had been really proud when the Community pulled together for the shipyard but was not proud of how this was going. Ms. Muccio asked the Council to respect her vote as well as all the others who voted and not to ignore them.

Charlie Rodis, 10 Colonial Road, said he would like to address his comments primarily to people who lived in the Village. Mr. Rodis said that when they waited for the Council to give them the permission to go to vote on the Community Center, it was with the idea it would be moving forward and he was pleased. The neighbors, he said, came at the beginning and really wanted to know what was going on. After the vote, they didn't see the neighbors again. The second time, Mr. Rodis said, the vote was very close, only eight votes. At the beginning it had been devastating to him but he felt it was too close, that it divided the Town and they didn't want that. The third time, they had a mandate from the people. Mr. Rodis said that when you have honest disagreements, it was one thing, they could go again; but he deeply resented when they were called liars. He said that didn't unify a Town and these people were not humble before the facts so there was nothing you could do to persuade them. Mr. Rodis said this was something that concerned not only the Village people but also the whole Town and it should be something positive, not negative for the Town. Mr. Rodis said they should unify and get together to make this something the Town of Kittery would be proud of.

Susan Emery, 5 Mitchell School Lane approached the podium and said she certainly respected the vote of the public, however, some issues had come out since the vote. She suggested that the Council separate the bond projects and expressed her concern with this project being in keeping with the Town's design standards. She said the purpose of the design standards was that, as development occurred, those large buildings that had a large impact on the Town were to be in keeping with our setting. Ms. Emery said that the second thing was a lot of concern about the fact that it was really covering and decimating that field and she wondered about the possibility of moving the old building into the back corner so that more of the green space could be retained. In regards to scale, she said, she didn't understand why they would need an administrative wing because people who "recreate" were out doing things not sitting in large offices.

Peter McCloud, Norton Road, came up and said he would like to just bring up that there were several points where the Comprehensive Plan was not being observed very well. The Plan says that Town water should not go straight through Spruce Creek, which was happening but the Plan says it should not happen. He wondered why they were paving over a ball field, that was not in keeping with the Comprehensive Plan and also the wetlands would be disturbed. He was very upset that they were planning to dig in the wetlands and that if anyone else in the Town tried to dig in the wetlands, the Code Enforcement Officer would be knocking on their door in a hurry. Mr. McCloud said that those wetlands should be protected at all costs; they don't make them any more. He said people had been saying that this was an 11th hour attempt but the citizens that

brought this petition have done nothing wrong. He said the other thing was his concern about the priority of the fire station as compared to a new building in the Village.

Bill Pagum, 8 Cromwell Street, approached the podium and said he was an abutter to the property in question and that he opposed the bond issue based on the following: quality of life: the neighborhood would lose open space; it was a beautiful place that would be paved over; the wetlands are behind my house. It used to be a marsh that converted to a skating rink and then they did some water drainage canals. Now, it's being called a disturbed wetland and no longer a skating rink. Mr. Pagum said the second item had to do with property values. The increased traffic and the loss of view would decrease its value as well as draining issues. The road drains to Manson but there are flood problems in the back yards. The retaining wall behind his fence would cause more problems with drainage and what was shown as wetlands really wasn't all wetlands. The wetlands were behind his house as well and it wasn't shown on the map. Mr. Pagum said that his taxes had gone up 40% and wondered who had gotten those kinds of pay raises? He said that property owners would be paying twice, they would have to pay once for bond issues and second, for use of facilities.

Bill Bailey, 28 Tenney Hill Road said he hoped that this new Council wasn't going to try to fix what wasn't broken. It seemed to him that they wanted a new center because they didn't take very good care of what they had and a new fire station because they only had three in Town. Mr. Bailey said he would hope the Council would not do these projects because they cost more than he and others could afford and found it interesting that in the editorial page of Saturday's paper, on one side, it said Kittery should accept the mandate of Kittery voters and, on the other side, it said we needed to help the needy in Kittery.

Lisa Comeau, 33 Halstead Street, came to the podium and spoke on behalf of Joanne Reines and her group who were in opposition to the plan at the Admiralty Village site. Ms. Comeau said she wanted to thank the Council for being there and she had her own statements but also had statements from a few people who had been unable to be there which she wanted to submit. Ms. Comeau said she had six big issues: cost/tax; size; traffic; wetlands impact; character; and quality of life. She said that the public was not being told the real cost or square footage of this project and found it interesting that the planned parking lot had doubled in size so they obviously were expecting quite a lot of cars. She was concerned to hear about a traffic study because nowhere did she find that the public had been invited to any Committee meeting; the study had been done in July and no one knew about it. Ms. Comeau said there had been three accidents in that vicinity in the last six months and she had given Council copies of those reports.

George Dow, 1 Bartlett Road, Kittery Point, said that his family lived there for a number of years and when he was a kid he had been petrified to go by it because it was no where near what it looked like now. He said that people like Janice Grady brought back a tremendous amount of value to this Town; that there were workers providing services to this Community. He said it was unbelievable unless you got involved and understood. Mr. Dow said both these projects should be considered together and they should review where they had been. This project had been brought up before a public hearing and no one complained; people voted it down the first time. The second time, why did we come back? People wanted it, just not that way. Plans and charts were changed and 2,500 plus voted yes; some voted no – sorry, that's democratic. Mr. Dow urged people to acknowledge the voice of the Town and to respect each other's votes.

Jane Durgin, Cook Street, said she was an employee of the School Department and she worked with children. Ms. Durgin said that a community center was badly needed for those children and this was a very important building to be built in the community for all of the children, not Village children, not Kittery Point children, but all their children, so she hoped they could work together, act like adults and put this through.

Debbie Driscoll, 1 Bowen Road, came to the podium and said that a good part of her life she pretty much grew up in the Village. She said that the Rec Center was one thing but then they added the hospital, which didn't belong in that area. Ms. Driscoll said that a hospital is a community use and belonged in a commercial zone. Emery Field belongs to all of us, she said, and asked the Council to please not pave over one of the only open space in the Village. Ms. Driscoll said she believed there wasn't a single yard to kick a ball in all of the Village. She said please don't take away the opportunity to throw a ball. Since the Fire Department bond had been issued, Ms. Driscoll said, it would be wise to consider the financial issues now rather than be \$5 million in debt. She said she sympathized but was strongly opposed to the physical therapy center; that the Town put forth a use that didn't belong there and this was a dangerous thing to do. She said please stop now before we destroy the Village.

Marsha Kenney, 21 Manson Avenue, approached and said that she was employed by the Resource Center Children's Leadership Council and had the opportunity to work with the Kittery Rec Department on many terms but she worked with the schools and parents of all economic ways that came to the Center. She said they were so excited about the new Center and, as a volunteer, people came up to her and expressed their gratitude. Ms. Kenney said they voted it in and they should keep it in.

Catherine Davis, Woodlawn Avenue, said she was there to voice her concerns as a resident. She said she was not against progress when it was done right, however, for the Community, the Rec Center was super sized for the place it was intended. She said that kids in the Village could now walk their dogs and she thought they wanted to keep open spaces. A traffic study was done here showing a higher accident rate. She could only speak for Woodlawn Avenue but there was a great deal of traffic and children. Ms. Davis said she had a car come onto her lawn, wiping out her garden and that there is a curve in the road with a blind spot where there was an accident. This plan, she said, was a major red flag to pedestrians.

A Mr. Rogers said his kids, who are four and six, frequent the Rec Center and they participate in all kinds of things like making gingerbread houses and the activities they do were so amazing; he thinks it would be atrocious for that not to continue in this community although he did agree with the traffic situation. He said they see cars go 55 miles per hour there and he would hope there would be a stoplight or something to alleviate those concerns but he thought it would be doing everyone a huge disservice not to continue the Rec Center.

Steve Workman of Bridge Street came to the podium and said it took him a while to come up, he didn't think he would have to defend his vote but apparently he did have to defend those votes. He certainly hoped they were not petitioning them away. Mr. Workman said he did understand there were valid concerns, however, he believed they had a process and they needed to use those mechanisms to be sure those happened. He said he also realized there were going to be losses on both sides but what bothered him was hearing the word community bandied around. Mr. Workman said he didn't see them as acting like a community because he didn't see that they ever proactively planned. Mr. Workman said that people seemed to react to issues, as they had with casinos and malls, and what they needed was to question whether they were going to make proactive plans in the Town or wait to step forward when they wanted to say no. He urged that they start to build their community the way they wanted it rather than wait to hear other people say the way they wanted it.

Chairperson Grinnell said there were about 20 who spoke and they all had spoken on the same issue. It had been hard to gavel people down, she said, and wanted people to know there would be a public hearing on this and invited people to please come again. The Chair then called a recess. *Recess was called at 8:35 p.m.*

Meeting was called to order at 8:45 p.m.

12. UNFINISHED BUSINESS

a. *THE KITTERY TOWN COUNCIL MOVES TO RECEIVE \$50,000 IN GRANT MONEY FOR THE LAND CONSERVATION FUND FOR THE HALEY ATHLETIC FIELDS.*

Commissioner of Public Works Rick Rossiter advised the Council that although they thought they were all set to receive funding under the Land Conservation Fund, it turned out there might be a problem. Their application had been approved by all State Agencies and was sent to the National Parks Service. Mr. Rossiter said that there was \$847,000 worth of projects for the whole state of Maine and the maximum amount allowable was \$50,000 which they applied for and received approval for by all State Agencies. However, due to the floods, it was being rumored that there wouldn't be any money available. Mr. Rossiter said they were there before the Council in the event that it did become available. They already said they were in agreement and basically that was generally what it was all about and he would be happy to answer any questions.

Chairperson Grinnell asked if Council had any questions and Councilor Dennett asked Mr. Rossiter about the part of the agreement that stipulated the facility would have reasonable hours and that there would be no discrimination based on the usual causes or "place of residency." Councilor Dennett said that they were apparently enabled to make rules and regulations for the facilities and wondered if the Town could end up in a situation where, since there was Federal money involved, they could be shutting their own people out to a great degree in order to accommodate people outside of Town? Mr. Rossiter said they had received grants from the same source in the past for Emery and Shapleigh Fields and that they were able to schedule their own events. However, he said, there is the provision, but the people coming in from out of Town would have to go by the Town's rules and regulations. Councilor Dennett asked if that meant Kittery residents would have preference and Mr. Rossiter said yes. Councilor Dennett said perfect and thanked Mr. Rossiter.

COUNCILOR DENNETT MOVED TO RECEIVE \$50,000 IN GRANT MONEY FOR THE LAND CONSERVATION FUND FOR THE HALEY ATHLETIC FIELDS, SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Mr. Rossiter told Council that he had one more issue to cover, which concerned the purchase of a snowplow, loader and sander. Referring to his recommendation, Councilor Dennett asked Mr. Rossiter if he could convince them why they should pay \$6,000 more for the Fairfield product over the Northland Holder product? Mr. Rossiter said that he had done an initial summary of snow plowing and removal and both products priced around \$84,000. That was, however, before the side arm boom flail mower was added. The one with Fairfield, he said, was higher at \$23,020 but that included dual tires and two extra sets of blades; the other one said that the tires were included but he found out after a demonstration that they don't have dual tires, they only have a wide all-terrain tire so they came in at \$16,653 and that's basically where you're finding your largest difference. After demonstrations, we found that the Fairfield machine is wider and reaches longer and also has a good reputation. Mr. Rossiter said he spoke with three communities that had purchased the machine and two of those communities had used both in the past. The boom flail mower was highly recommended both according to the three communities I called and was very well recommended over the Holder by the two communities that had experience with

both. Mr. Rossiter asked if that answered Councilor Dennett's question? Councilor Dennett said no, Mr. Rossiter had to convince him why he had to pay \$6,000 more. Mr. Rossiter said he hadn't had experience with the machine so he called the three communities who did. Also, he said, the Holder didn't give him communities to talk to and they had actually held up the bidding process and even brought down a machine they were using in Portland because they didn't have a demo. Mr. Rossiter said they were both good but the boom flail mower would be recommended as the better mower, the one that's wider and heavier duty. Councilor Dennett said he still had nothing to objectively look at that told him that one was basically better than the other. Mr. Rossiter said he had given what he had. Councilor Dennett said then he wouldn't pressure him on the issue, he just wasn't convinced he wanted to pay \$6,000 more. Mr. Rossiter said that one was smaller than the other so you weren't comparing exactly the same thing. He said he would like an Alamo more but neither had an Alamo; he was familiar with that.

Chairperson Grinnell asked if there were any other questions for Mr. Rossiter and Councilor Shwaery said he had a question on the first page where it gave a figure of \$106,975 with an additional \$400 for a rear sliding cab window for a total of \$107,375, then on the second page it said that the dealers reported this as almost never purchased and you were going to delete this item, so my question is are we getting a window or not? Mr. Rossiter said they would be getting the window – that was a typo; it was the rear 3 pt hitch that was almost never purchased. The reason it was separated out was because it was available with one company and not the other.

CHAIRPERSON GRINNELL MOVED TO APPROVE THE RECOMMENDATION OF THE COMMISSIONER OF PUBLIC WORKS TO PURCHASE A SIDEWALK SNOWPLOW/LOADER IN THE AMOUNT OF \$107,375 FROM H. P. FAIRFIELD, INC., SECONDED BY COUNCILOR HEILSHORN.

Councilor Dennett said that he didn't doubt that everybody had done a good job here, however, he had yet to be convinced he had to spend the extra \$6,000 for the higher bid and that they seemed to be getting into a number of situations he didn't like too much; he would have to vote against the Motion. Chairperson Grinnell said she would vote for the Motion because she would take Mr. Rossiter's recommendation. Councilor Heilshorn said he appreciated the fact that Mr. Rossiter made phone calls and that he had made a rational decision. Town Manager Carter said he was familiar with the trackless unit and had, in fact, purchased two in his prior position because it was a more stable vehicle and the dual tires were important because the all-terrain tires with that heavy side arm flail, he didn't think would be safe. Councilor Dennett asked that if that was the case why wasn't it "spec'd;" we shouldn't even consider the bid until we find out did each bidder meet or exceed the minimum specifications? Mr. Rossiter said it depended on which salesman you talked to. Councilor Dennett said when they spec out a tractor, he personally would say: we want "x" horse power engine - we put in certain minimum specs. Mr. Rossiter said that in this particular instance, they only had two manufacturers who made this kind of machine so the luxury of getting exactly what you wanted may not exist to the letter and they both gave bids and it was their obligation to supply Council with the results. Town Manager Carter said that he thought the only difference here was in the flail mower. Councilor Dennett said that price-wise they were very close. Mr. Rossiter said that was comparing tractor to tractor. Councilor Dennett said he was used to exact specs that were either met or exceeded. Mr. Rossiter said he spec'd out a flail mower; the tractors themselves were quite different – the trackless was 110-horse power and the Holder was 75-horse power. Also, he said, the parts availability, when he talked to the people who operated these machines, the Trackless was better because they could go down to their local Nappa store but with the Holder, you might have to put the tractor away.

But, Mr. Rossiter said, he hadn't used the Holder machine. Chairperson Grinnell asked Councilor Dennett if he was done and Councilor Dennett said, Madam Chairman, I am never done, but I have finished on this issue. Chairperson Grinnell asked if there was any more discussion and there was none.

A ROLL CALL VOTE WAS TAKEN AS FOLLOWS: 6 IN FAVOR, 1 OPPOSED.
MOTION PASSES 6/1.

b. *THE KITTELY TOWN COUNCIL AMENDS ITS OCTOBER 24, 2005 VOTE TO SET THE TAX OVERLAY AMOUNT FROM \$235,954 TO \$311,640 TO REFLECT THE ADJUSTMENT IN VALUATION FROM THE DATE OF THE LAST COUNCIL MEETING.*

Chairperson Grinnell said she believed the Councilors had spoken with the Manager about this issue and asked if there were any questions.

CHAIRPERSON GRINNELL MOVED TO AMEND ITS OCTOBER 24, 2005 VOTE TO SET THE TAX OVERLAY AMOUNT FROM \$235,954 TO \$311,640 TO REFLECT THE ADJUSTMENT IN VALUATION FROM THE DATE OF THE LAST COUNCIL MEETING, SECONDED BY COUNCILOR SHWAERY.

Councilor Dennett said, note to the public, even though the amount is higher, it has no affect on taxes.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. *OTHER*

Councilor Shwaery said he was to confer with and attend the Kittery Conservation Commission meeting regarding changes to rules and regulations and though he was not able to attend, he did speak with Chairperson Wells who told him they were not able to come to a consensus and would get back to them. The other thing was there were a lot of important things they discussed tonight, there's a Zoning Board meeting tomorrow night regarding the York Hospital at Shapleigh School, Thursday night there was the Planning Board and Memorial Bridge Workshop on Wednesday, so to the new members of the Council, this is a way to get educated your first week so, that life you thought you had, reconsider.

13. NEW BUSINESS

a. (110105-5) *THE KITTELY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairperson Grinnell said Town Warrant 38 was in the amount of \$112,804.26. Councilor Dennett said that the Town Warrant was satisfactory.

COUNCILOR HEILSHORN MOVED TO APPROVE THE DISBURSEMENT WARRANT, SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

b. (110105-6) *THE KITTELY TOWN COUNCIL MOVES TO ADOPT ITS COUNCIL RULES FOR THE ENSUING YEAR.*

Councilor Dennett said that this was near and dear to his heart.

COUNCILOR DENNETT MOVES TO ADOPT COUNCIL RULES WITH THE MOST RECENT DATE OF OCTOBER 28, 2002 THAT INCLUDE SELECTION PROCEDURES FOR COUNCIL APPOINTMENTS WITH THE MOST RECENT DATE OF NOVEMBER 27, 2000 FOR THE ENSUING YEAR, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Shwaery said he would only like to add that Council certainly read these and adhere to them when realizing they spoke as a private citizen and not Council.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. (110105-7) *THE KITTELY TOWN COUNCIL MOVES TO APPOINT JOHN COPLEY AS AN ASSISTANT CODE ENFORCEMENT OFFICER FROM 1/1/05 – 12/31/05.*

COUNCILOR SHWAERY MOVED TO APPOINT JOHN COPLEY AS AN ASSISTANT CODE ENFORCEMENT OFFICER FROM 1/1/05 – 12/31/05, SECONDED BY COUNCIL HEILSHORN.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. (110105-8) *THE KITTELY TOWN COUNCIL MOVES TO APPOINT JOHN COPLEY AS AN ALTERNATE LOCAL PLUMBING INSPECTOR UNTIL 12/31/05.*

CHAIRPERSON GRINNELL MOVED TO APPOINT JOHN COPLEY AS AN ALTERNATE LOCAL PLUMBING INSPECTOR UNTIL 12/31/05, SECONDED BY COUNCILOR SHWAERY.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Grinnell said she would like to thank Jack Copley for all the effort he had put in for the Town.

e. (110105-9) *THE KITTELY TOWN COUNCIL MOVES TO APPOINT ROCHELLE BISHOP AS AN ALTERNATE LOCAL PLUMBING INSPECTOR UNTIL 12/31/05.*

COUNCILOR HEILSHORN MOVED TO APPOINT ROCHELLE BISHOP AS AN ALTERNATE LOCAL PLUMBING INSPECTOR UNTIL 12/31/05.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

f. (110105-10) *THE KITTELY TOWN COUNCIL MOVES TO AUTHORIZE THE TOWN MANAGER TO USE AN ALTERNATIVE PROCUREMENT METHOD, IN ACCORDANCE WITH SEC. 3.04.070 OF THE PURCHASING ORDINANCE, TO PURCHASE A GRIT SEPARATION MACHINE FOR THE SEWER DEPARTMENT.*

Chairperson Grinnell recognized Mr. Tapley and asked if Council had any questions for him. Council Dennett asked Mr. Tapley why they were being asked to use a different procurement

method. Mr. Tapley said that this piece of equipment had to fit into a very unique location. He said he talked to their engineers and, without going into a lot of retrofitting in the existing building, it would be difficult to put in a different machine. Councilor Dennett asked if this was custom built to begin with and Mr. Tapley said correct; and there was a tank beside this unit and the two had to work together the way it was designed. They talked about a cyclone pump that would be able to separate the grit and they said it would involve quite an extensive amount of retrofitting of the building and tank so they felt it was better to go with this than try to fit something else in there. Councilor Dennett said so, you're saying we can't go to the local sewer supply house and get something off the shelf. Mr. Tapley said no and Councilor Dennett said apparently, you're giving us an estimate on equipment but are bidding out labor. Mr. Tapley said that on equipment, there was a piece of chain type that they found was better than the original chain from U.S. Filter and they made a sprocket that didn't break down, which was part of that cost; with a different kind of chain you would add \$7,000. Mr. Tapley said that he used a figure of \$20,000 for contracted out labor but he believed it would be considerably less, probably about \$10,000 but having said that, he didn't want to come back to Council and say they needed more money, he would rather come back and say they used less. We will be taking this out of the depreciation account so that money has been there for just such purposes, as we've done before; it's there to replace the equipment.

CHAIRPERSON GRINNELL MOVED TO AUTHORIZE THE TOWN MANAGER TO USE AN ALTERNATIVE PROCUREMENT METHOD, IN ACCORDANCE WITH SEC. 3.04.070 OF THE PURCHASING ORDINANCE, TO PURCHASE A GRIT SEPARATION MACHINE FOR THE SEWER DEPARTMENT, SECONDED BY COUNCILOR HEILSHORN.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

g. (110105-11) *THE KITTERY TOWN COUNCIL MOVES TO DISCUSS WAIVING COUNCIL RULES AND NOT HOLDING THE SECOND MEETING IN DECEMBER (WEDNESDAY, DECEMBER 28TH).*

COUNCILOR SHWAERY MOVED TO DISCUSS WAIVING COUNCIL RULES AND NOT HOLDING THE SECOND MEETING IN DECEMBER (WEDNESDAY, DECEMBER 28TH), SECONDED BY COUNCILOR HEILSHORN.

Councilor Dennett said that, as Chairman of the "Loyal Opposition," he would have to vote against this. They had a tremendous amount of work to do and that would push more into the following month. He said he could only speak for himself, he would rather have the second meeting and reminded Council they were there to serve the Town. Councilor Shwaery said he would agree, he just thought they might want to see a show of hands of who would be in the State.

COUNCILOR DENNETT MOVED TO POSTPONE DISCUSSION WAIVING COUNCIL RULES AND NOT HOLDING THE SECOND MEETING IN DECEMBER (WEDNESDAY, DECEMBER 28TH) UNTIL OUR NEXT REGULARLY SCHEDULED MEETING THIS MONTH, SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Grinnell said they would come back to the next meeting and know whether they would be around on December 28 and she presumed the Manager would put a note in everyone's packet so they would check their calendar.

h. (110105-12) THE KITTELY TOWN COUNCIL MOVES TO DISCUSS AND AUTHORIZE THE TOWN MANAGER TO PROCEED WITH BOND COUNSEL TO COMBINE BOTH BOND ISSUES ON THE FIRE STATIONS AND THE COMMUNITY CENTER, IF THE BOND FOR THE FIRE STATIONS SHOULD BE PASSED, AND TO HIRE A CONSTRUCTION MANAGER FOR BOTH PROJECTS.

Town Manager Carter said he had put a memo on this issue in their packets and the issue was about his preparing for some very large projects that may take place in the community. The amount of front-end work was quite extensive, especially when you were dealing with things like bidding these projects out, the oversight of the projects and acquiring the necessary funding to support them. They wanted to do this in the most efficient way possible and by working toward a construction management system, they may be able to save quite a bit of money in the oversight of these projects. In addition, the Manager said, we may be able to get a better rate on money by increasing the size of the bond issue out there and, in that line, he was only asking this evening to gain Council's concurrence to start the process of 1) obtaining bond counsel, a specialized attorney to review the paperwork; 2) begin to bring in a bond packager, which was another specialty person who would package the document and sell it on the bond market; and 3) to begin to acquire a proposal for contract management work for the three projects. None of these items, the Manager said, would be set in concrete, they would all come back to Council.

Chairperson Grinnell asked if there were any questions of the Manager and Councilor Brock said he wanted to focus on the Manager's last comment about it not being set in concrete. He said he understood tonight that the Planning Board was looking at issues involving the Rec Center such as parking, wetlands and others, so he would not want the Council action on bonding to prejudice the review of the Rec Center by the Planning Board and Zoning Board. If they approved and the Planning Board or even the Zoning Board, who would be hearing the hospital issue tomorrow, did not - had the Council gone too far down the road? Town Manager Carter said no, because nothing could go forward in our asking the Council to release the bond issues until the Planning Board had given their approval and no one was going forward without a building permit. What we have to do as a building team here, we have to think through the cash flow, the timing, when the bidding is going to occur, what is the most favorable light to send the bond out to market and all of these things will be put into a project management set. This is a huge amount of work and if you don't start speaking about these things right now, as we have brought these two projects together to think through what is the most efficient way to do them, you are not going to have the ability to take advantage of how to make these two projects work for the community to save money and to assure the community that they are built in the most proficient way. Councilor Brock said he appreciated the Manager's answer and thanked him. Councilor Dennett said he was in favor and hopefully it would be reported in the press and everyone who heard it wouldn't think that anyone committed to anything, it just got preliminaries out of the way. Councilor Dennett said that just as in bonding, it took a lot of time and having a bond counsel work with the Town, just having one rather than two saved money.

COUNCILOR DENNETT MOVED TO AUTHORIZE THE TOWN MANAGER TO PROCEED WITH BOND COUNSEL TO COMBINE BOTH BOND ISSUES ON THE FIRE STATIONS AND THE COMMUNITY CENTER, NOW THAT THE BOND FOR THE FIRE STATIONS HAS PASSED, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Shwaery asked the Manager about the last part of item h, hiring a construction manager for both projects, if they were required to send this out to bid and Town Manager Carter said he would be coming back to Council with an alternative procurement method. The Community Center had worked this out and he thought he had put a set of Minutes in everyone's package and Councilor Shwaery thanked him.

Chairperson Grinnell said that Councilor Dennett's Motion was about the bond issue but nothing was said about the construction. Town Manager Carter said they were not hiring anyone, they would be putting a proposal together to give back to Council.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

i. (110105-13) *THE KITTELY TOWN COUNCIL MOVES TO SIGN A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS), AS DIRECTED BY THE DEPARTMENT OF HOMELAND SECURITY, AS THE BASIS FOR ALL INCIDENT MANAGEMENT IN THE TOWN OF KITTELY.*

COUNCILOR SHWAERY MOVED TO SIGN A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS), AS DIRECTED BY THE DEPARTMENT OF HOMELAND SECURITY, AS THE BASIS FOR ALL INCIDENT MANAGEMENT IN THE TOWN OF KITTELY, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Dennett said he noted that this had been signed by the Manager, the Chief of Police and not by Mr. Rossiter. Town Manager Carter said that Mr. Rossiter unfortunately had a death in the family. Councilor Spiller said the version she had had Mr. Rossiter's signature on it and the Manager said Barbara may have gotten him to do it.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

j. (110105-14) *THE KITTELY TOWN COUNCIL MOVES TO RE-APPOINT DUDLEY BIERAU TO THE BOARD OF ASSESSMENT REVIEW UNTIL 11/30/08.*

Chairperson Grinnell asked if someone had interviewed Mr. Bierau. Councilor Brock said he interviewed him, along with Frank Clark and Bob Wyman. He said he thought they were all doing an excellent job and asked that Mr. Bierau be reappointed.

COUNCILOR BROCK MOVED TO RE-APPOINT DUDLEY BIERAU TO THE BOARD OF ASSESSMENT REVIEW UNTIL 11/30/08, SECONDED BY COUNCILOR SHWAERY.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

k) (110105-15) *THE KITTELY TOWN COUNCIL APPOINTS A COUNCIL REPRESENTATIVE TO MEET WITH A MEMBER OF THE BOARD OF ASSESSMENT REVIEW TO INTERVIEW FRANK CLARK FOR HIS APPOINTMENT AS AN ALTERNATE MEMBER UNTIL _____ 2008 (MOVING FROM FULL MEMBERSHIP).*

Councilor Dennett said this was an extremely interesting situation – we have a permanent member of the Committee who wishes to move down to an alternate member. Councilor Dennett

said there was nothing in their rules that covered this, therefore, he was going to move that Council suspend rules in order to discuss rules.

COUNCILOR DENNETT MOVED TO SUSPEND COUNCIL RULES IN ORDER TO DISCUSS THE APPOINTMENT OF A REGULAR MEMBER OF THE BOARD OF ASSESSMENT TO AN ALTERNATE MEMBERSHIP, SECONDED BY COUNCILOR SHWAERY.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Councilor Dennett said that as the rules were suspended, he would move that the Council appoint Frank Clark as an alternate member of the Board of Assessment Review without the requirement of interview and that appointment would run until December 1, 2007.

COUNCILOR DENNETT MOVED THAT COUNCIL APPOINT FRANK CLARK AS AN ALTERNATE MEMBER OF THE BOARD OF ASSESSMENT REVIEW WITHOUT THE REQUIREMENT OF INTERVIEW AND THAT APPOINTMENT WOULD RUN UNTIL DECEMBER 1, 2007, SECONDED BY CHAIRPERSON GRINNELL.

Councilor Dennett said he used that date because they were trying to keep their Boards on the same cycles of years. He said that if they kept it in 2007, it kept concurrency.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

Councilor Dennett said that as a side note, there was a comment in Mr. Clark's application that Bob Wyman would become Chairman and he said he was confused because he presumed they were going to have an application, he hoped. Town Clerk Place said that no one had communicated with them and they would have to contact the Board. Councilor Dennett asked if Mr. Clark had to be resworn and Town Clerk Place said yes, she would swear him in.

l. (110105-16) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE AN EXECUTIVE SESSION FOR MONDAY, NOVEMBER 28TH AT 6:15 P.M. WITH THE TOWN MANAGER AND TOWN ATTORNEY TO DISCUSS A LEGAL MATTER IN ACCORDANCE WITH 1 MRSA, SUBSECTION 405(6)(E).*

COUNCILOR DENNETT MOVED TO SCHEDULE AN EXECUTIVE SESSION FOR MONDAY, NOVEMBER 28TH AT 6:15 P.M. WITH THE TOWN MANAGER AND TOWN ATTORNEY TO DISCUSS A LEGAL MATTER IN ACCORDANCE WITH 1 MRSA, SUBSECTION 405(6)(E), SECONDED BY CHAIRPERSON GRINNELL.

A ROLL CALL WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

m. *OTHER*

Chairperson Grinnell said she only had one issue – the Manager could correct her if she was wrong – there was a meeting Wednesday night in Portsmouth concerning Memorial Bridge. Town Manager Carter said four elected public officials were invited by the New Hampshire Department of Transportation and the Council in Portsmouth and the Councilors here will meet

with the DOT and our respective staffs have been invited and that's at 6:30 p.m. Chairperson Grinnell said she was planning on going and knew the Manager was going and that was all she had. Town Manager Carter said the Town Clerk had an issue to discuss.

Town Clerk Place said she put a memo in their packets to inform them about both petitions submitted by Lisa Comeau and the timeline was they had to be done within 30 days of when they received them. The Clerk said she recommended November 28 and then from there, there would be the additional sequence of events that would have to be followed depending on what came out. The Clerk also made a recommendation for date of election. She said Council would need to schedule a public hearing. Chairperson Grinnell asked if there were any question for the Town Clerk on this issue.

COUNCILOR DENNETT MOVED TO HOLD A PUBLIC HEARING ON MONDAY, NOVEMBER 28 TO HEAR AND DISCUSS PETITIONS SUBMITTED BY LISA COMEAU, SECONDED BY COUNCILOR SHWAERY.

Councilor Dennett made note that it should not be construed by anyone that Council favored or opposed the petitions, it was something they had to do by Charter, they had no choice. He further said that at that public hearing Council would deliberate on whether they approved the requests of the petitions and then vote. He said that was presuming the Town Attorney advised them these were Constitutional and legal. If he did, than Council held the public hearing and at that hearing they would have to vote to accept or reject and if they accepted, everything changed and if we reject, it must go to a vote. Councilor Shwaery asked if this hearing would require a seven-day public notice? Councilor Dennett said he would say yes and he would also suggest, just for technical formalities, that the Planning Board be there. Chairperson Grinnell asked Councilor Dennett if he was saying he wanted a joint public hearing and Councilor Dennett said it was a gray area but as they experienced that evening, this Council could not move forward until the Council and Planning Board have a public hearing. One of the petitions certainly dealt with zoning, the other one he didn't think so, but he would rely on and ask the Manager to ask the Town Attorney. Councilor Dennett said better safe than sorry but no reason to call people out if not necessary and would they like to vote on that item?

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

14. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

b. *TOWN MANAGER'S REPORT*

Chairperson Grinnell asked for the Manager's Report and Town Manager Carter said he would make it as short as possible. He said the tax bills had been sent out, they had a new look and he hoped it added clarity and understanding to everyone's lives.

The second item was they started a program, which Council was aware of, "Fuel and More" with the help of Kittery clergy in the area and fuel oil companies. They put a program, which is a safety net for those in the community who will face heating problems this winter. They centralized the process and set up a framework that will help those in need for the winter.

The Manager said they would be working as a staff to put together a proposal which was in their background notes to request consideration be given for granting the day after Thanksgiving off for the nonessential services and staffs in the community. This would be the employees taking

their paid leave vacation time, personal time or comp time so they would be taking the time off on their own with the authorization of Council. He said that the Transfer Station and Sewer Department would remain open, as well as public safety. Chairperson Grinnell said she thought that was a good compromise and thanked the Manager for working that out. Town Manager Carter asked if that was a consensus. The Council concurred with the Town Manager's proposal on granting the date off after Thanksgiving with the employees using their own time." The Manager said he would leave it at that. There were other items, he said, but they were self-explanatory.

15. ADJOURNMENT

CHAIRPERSON GRINNELL MADE A MOTION TO ADJOURN, SECONDED BY COUNCILOR SHWAERY, WITH ALL IN FAVOR BY VOICE VOTE.

Meeting adjourned at 9:50 p.m.